

41. A method as claimed in claim 23, further comprising, following the step of attaching, the additional steps of placing the cartridge/cassette on a photocopier and photocopying test results showing in the window.

REMARKS

The action mailed 07/22/98 has been received and its contents carefully noted.

A new abstract is attached on a separate sheet of paper.

Claims 1, 8 and 23 have been amended on matters of form. Additionally, claims 1 and 8 have been amended to improve their distinction over the references applied against them, as will be explained below.

With respect to the rejection under 35 U.S.C. 112, second paragraph: Of the claims rejected, claims 8 and 23 remain. Rejection of those claims on the basis of Section 112 is avoided for reasons as explained in the following two paragraphs.

Claim 8 is worded exactly in the manner of claim 1 (which was not rejected under 112), except that the sample is specified to be "urine". This is in the nature of a use designated in the preamble. The term also appears in the body of the claim. "Intended use recitations cannot be entirely disregarded." See MPEP 2111.02. Urine is a liquid, and the recitation here lends further significance (meaning) to the structural provisions in the claim for sealing the top in a fluid tight relationship.

Further with respect to the "112" rejection: Amended claim 23 is in the nature of a use claim under 35 U.S.C. 100(b). It provides depth to applicant's claims, should it later be determined that the product was known.

Turning now to the rejections of claims 1, 8 and 23 under 35 U.S.C. 102(b), these claims avoid rejection on this basis as explained in the following paragraphs.

Claims 1, 8 and 23 avoid rejection on Senior. In Senior, the opening is in the end of portion 13. Member 16 protrudes out of the opening. When cap 15 is in place on portion 13, sample can still move out of the opening, into the exposed member 16. So, claims 1, 8 and 23 avoid Senior by specifying that the cap/cover seals the top of the well/opening in a fluid tight relationship. Paragraph a. in col. 5 of Senior has been noted, but this does not inherently lead to a structure where the cap seals the top of the apertures. Paragraph a. is open to a number of interpretations not resulting at all in the invention as claimed in claims 1 and 8. See, for instance, MPEP 2131. If the reference does not show the subject matter of the claim, it is not sufficient foundation for an anticipation rejection.

Claims 1, 8 and 23 avoid rejection on Krafczyk by specifying that the well/opening is separate from the window. In Krafczyk, these are open to one another, in order to accomplish the intended gas evolution testing.

Claims 1, 8 and 23 avoid rejection on Schwab by the specification of a test strip, whereas Schwab has buttons, and by the specification that the cap/cover means is for sealing following deposit of the sample, whereas the covers, for example 10, in Schwab are in place before introduction of the sample and are not designed or taught for placement after introduction of the sample.

Concerning the rejections of claim 23 on Horvatter and Seymour, claim 23 has been amended to depend from claim 1. Claim 23 thus relates to steps of operation of apparatus

fundamentally different from that of Hovatter and Seymour, so that rejection on the basis of these references is avoided.

Claims 24-41 have been added. These relate to features originally disclosed in the specification or drawings. In the case of features shown in the drawings as filed, but not expressed completely in the specification, the specification has been amended to contain wording descriptive of the state shown in the drawings. This is permitted, as discussed at MPEP 2163.06. Where helpful, request has been made above in the section of the amendment IN THE DRAWINGS for approval of additional reference characters in the drawings.

Claims 24-26 and 30-32 add to claim 1 the features of the space for reception of sample in the well/opening. The existence of this space is indicated by the curved line through the center of well/opening 4 in Fig. 1. The ability to see that curved line shows that the space is empty. These claims supplement claim 1 for creating definition of structures further removed from the references. Senior, for instance, mentions at col. 4, line 45, placing member 16 in a urine stream. Directing a urine stream into the empty space within well/opening 4 of the present invention would result in turbulence, overflow, and splashing. The apparatus of Senior and that here have differing structural features, to support the different ways in which they are intended to be used.

New claim 27 relates to placing the well/opening to be facing upwards in a most stable orientation of the cartridge/cassette. The cartridge/cassette is most resistant against tipping when the pipette is brought into position for deposit of sample.

Claims 28, 29, 33 and 34 combine the placement of the well/opening with the orientation of the cap/cover for tight sealing of the top of the well/opening. In contrast, even if member

16 were cut flush with the end of portion 13 in Senior, and the cap 15 of Senior cut short enough that its floor would butt against the end of portion 13, there is no assurance of a good seal, because there is no restraint to keep the floor of the cap from backing out of contact with the end of portion 13.

The new claims 24-34 have been chained together in various ways, in order to combine their mutually beneficial features in varying degrees of scope.

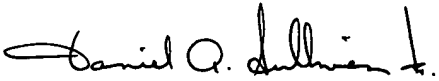
Claims 35-38 add to claim 1 the structures of Figs. 3-5, respectively, claim 35 providing for two test strips, claim 36 including the channel between the well/openings in Fig. 3 and claims 36 and 37 the snap-together features of Figs. 4 and 5. Neither Senior nor any of the remaining references shows these features. Two test strips in Senior would interfere with the need to have a centrally-placed test result for Senior's reader.

Claims 39 and 40 combine the structural features of an empty space within a well/opening, which is situated on a cartridge/cassette in a most stable orientation, in the context of claim 1, with method features taken from the description of Fig. 1 on page 3 of the specification, in order to capture the very different procedures and structure in the present invention as compared to Senior. Senior's bibulous member is placed in a urine stream.

Claim 41 specifies the placing the cartridge/cassette on a photocopier, for making a permanent, graphic record of the test results, this being distinguished from Senior's reader. Over time, test results can fade from a test strip, so that the method of claim 41 represents a significant advance over the reader-based technology of Senior.

On the basis of the above amendments and remarks, reconsideration of the rejections and allowance of claims 1, 8 and 23-41 are requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Daniel A. Sullivan, Jr." with a small flourish at the end.

Daniel A. Sullivan, Jr.
Attorney for the Applicant
Reg. No. 25068
Teleph. No. (724) 339-3330